



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives adopted the conference committee report on **H.4482**, a bill **DESIGNATING THE COLUMBIAN MAMMOTH AS THE OFFICIAL STATE FOSSIL** of South Carolina.

The House approved **S.908** and enrolled the bill for ratification. The legislation provides for **REVISIONS RELATING TO THE REGULATION OF HEALTH INSURERS** that are needed for the state's Department of Insurance to maintain accreditation with the National Association of Insurance Commissioners. The legislation revises insurance law provisions that relate to risk-based capital requirements for health insurers and the protocol for regulatory intervention to prevent a health organization from approaching financial insolvency.

The House approved **S.1010** and enrolled the bill for ratification. The legislation creates the **SOUTH CAROLINA TOM YAWKEY WILDLIFE CENTER TRUST FUND**, the income and principal of which must be used only for the purposes of supporting the operation and maintenance and the acquisition of additional real property complementary to those tracts of real property owned by the South Carolina Department of Natural Resources in Georgetown County, South Carolina, including South Island and the greater parts of North Island and Cat Island, known collectively as the Tom Yawkey Wildlife Center. The legislation authorizes the trust fund to receive public and private funding and provides for the trust fund to be administered by a board of trustees, whose chairman and members, serving ex officio, are the chairman and members of the board of the Department of Natural Resources. Currently, an old ferry is used to gain access to wildlife center properties, and the trust fund is to be used to build and maintain a barge bridge.

The House amended and gave second reading approval to **S.1071**, a bill providing for **GAME ZONE CONSOLIDATION** which reduces the state's current six game zones into four larger game zones in order to bring greater standardization and simplification to the laws governing the hunting of wild game in South Carolina. The legislation provides for the merger of the current Game Zone 6 into Game Zone 3 and the current Game Zone 5 into Game Zone 4 and makes various adjustments to hunting limitations.

The House returned **S.876**, relating to **RESTRICTIONS ON HUNTING DEER NEAR A RESIDENCE**, to the Senate with amendments. The legislation modifies the current prohibition on hunting deer within three hundred yards of a residence without the permission of the homeowner and occupant, by providing that this restriction does not apply when the hunter is elevated at least ten feet above the ground. The legislation provides that this prohibition applies to hunting deer with a firearm and expands the current exemption so that it applies not only to a landowner hunting on his own land, but also to a landowner's guests or lessees hunting on the landowner's property.

The House gave second reading approval to **S.913**, a bill establishing a state permitting process for engaging in **FALCONRY**, the hunting of wild quarry in its natural state and habitat by means of a trained bird of prey or raptor (Order Falconiformes or Order Strigiformes other than a bald eagle). Since the federal government has returned oversight of falconry to the states, this legislation establishes state-level provisions to

allow falconry to continue to be conducted lawfully in South Carolina. A person holding a valid federal falconry permit on January 1, 2014, may engage in falconry without a South Carolina falconer's permit until the federal permit expires.

The House gave second reading approval to **S.900**, a joint resolution creating a temporary legislative “**STUDY COMMITTEE ON EXPUNGEMENT OF CRIMINAL OFFENSES**” to review the state’s criminal laws for the purpose of determining criminal offenses which may be appropriate for expungement after a certain time period and under certain circumstances and to make recommendations to the General Assembly. The study committee's report is due by October 13, 2014, at which time the committee is set to dissolve.

The House amended and gave second reading approval to **H.4579**, a bill relating to the **CLARIFICATION OF COUNTY BOUNDARIES**. The legislation provides authorization for the South Carolina Geodetic Survey (SCGS) to assist counties in clarifying ill-defined boundaries.

The House gave second reading approval to **S.983**, a bill designating the month of March in every year as “**ENDOMETRIOSIS AWARENESS MONTH**”.

The House gave second reading approval to **S.997**, a bill **UPDATING THE SOUTH CAROLINA SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY PRACTICE ACT** statutes to comply with national licensing standards approved by the American Speech-Language Hearing Association (ASHA).

The House approved **S.1034** and enrolled the joint resolution for ratification. This legislation provides for the official **ADOPTION OF REVISED CODE VOLUMES 5 AND 8 OF THE CODE OF LAWS OF SOUTH CAROLINA**.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee met on Thursday, May 8, 2014, and reported out several bills.

S.1032 relating to **COASTAL ZONE CRITICAL AREAS** was given a favorable recommendation. The bill outlines that the Office of Ocean and Coastal Resource Management may allow any technology, methodology, or structure for use in a pilot project to address an erosion issue in a beach or dune area if it is reasonably anticipated that it will address the erosion issue. If success is demonstrated, the Office may allow the continued use.

S.1178 a bill regarding **WILDLIFE MANAGEMENT AREAS** was reported out favorably. This bill provides that a hunter's privilege to participate in lottery hunts may be revoked if a DNR officer witnesses or has probable cause to believe that a violation has occurred.

The bill further provides for remedies (participation in the next lottery hunt of the type for which the privilege was revoked or have preference points reinstated) if the hunter is not convicted of violations arising from the lottery hunt.

The committee gave a favorable recommendation to [S.1177](#) regarding **PROHIBITED ACTIVITIES ON STATE LAKES AND PONDS OWNED OR LEASED BY THE DEPARTMENT OF NATURAL RESOURCES AND DEPARTMENT-OWNED HERITAGE PRESERVES**. The legislation provides that activities prohibited in wildlife management areas are also prohibited on state lakes and ponds owned or leased by the Department of Natural Resources and in department-owned heritage preserves. The legislation eliminates provisions under which the Department of Natural Resources exercises management authority over the lakes and ponds that it owns or leases by establishing terms and conditions for their use by the public through regulations promulgated under the Administrative Procedures Act.

The committee gave a favorable with amendment recommendation to [S.890](#) **COASTAL ZONE MANAGEMENT REVISIONS**. This bill makes revisions to coastal zone management provisions. The legislation revises the shoreline forty-year retreat policy, so as to prohibit the seaward movement of the baseline. The Committee amended the bill so as to not allow seaward movement of the baseline after July 1, 2021 (in order for the appropriate geomorphologic baseline studies to be conducted). (The Senate bill stated July 1, 2014). The amendment also repeals the so-called "DeBordieu" language in Section 48-39-290(B)(2) effective July 1, 2021 (a 7 year repeal date). The Senate's language said 2017 (a 3 year repeal date). The legislation eliminates the right of local governments and landowners to petition the Administrative Law Court to move the baseline seaward upon completion of a beach renourishment project. The legislation provides that the Department of Health and Environmental Control's Coastal Division, rather than its Permitting Division, is the division to consider applications for special permits. The legislation facilitates a more expansive use of technologies, methodologies, or structures for addressing beach erosion.

JUDICIARY

The full Judiciary Committee met on Tuesday, May 6, 2014, and reported out several bills.

[S.764](#) received a favorable report from the full Judiciary Committee. This legislation **CREATES THE VULNERABLE ADULT GUARDIAN AD LITEM PROGRAM IN THE OFFICE ON AGING** within the Lieutenant Governor's Office to serve as a statewide system to recruit, train, and supervise volunteers to serve as court appointed guardians ad litem for vulnerable adults in abuse, neglect, and exploitation proceedings within family court. A guardian ad litem is charged in general with representing the vulnerable adult's best interests. The legislation provides the duties and responsibilities of a guardian ad litem. A guardian ad litem may be a layperson or an attorney; the legislation provides qualifications to become a guardian ad litem. The legislation authorizes the

Vulnerable Adult Guardian Ad Litem Program to intervene in proceedings to petition for removal of a guardian ad litem under certain conditions, and it requires information, reports, and records to be made available to guardians ad litem by state and federal agencies, medical and dental practitioners, and financial institutions. The legislation provides that reports and information collected and maintained by the program are confidential, and it provides for civil immunity for guardians ad litem when acting in good faith and in the absence of gross negligence. The legislation also provides that a party may move to have the guardian ad litem relieved of his services if the party demonstrates that the vulnerable adult has the capacity to assist counsel in the protective services case.

The committee gave a favorable report to **S.817**, legislation which provides for **BACKGROUND CHECKS FOR VOLUNTEERS AND CERTAIN POSITIONS AFFILIATED WITH THE SOUTH CAROLINA COMMISSION ON NATIONAL AND COMMUNITY SERVICE**. Both state and national criminal history background checks are required, unless the commission determines that the background check requirement for a person has been satisfied through another process. Also, the legislation requires the commission to pay for the backgrounds checks.

The Judiciary Committee gave a favorable with amendment recommendation to **S.4**, legislation making **ELECTION LAW REVISIONS** including new **EARLY VOTING PROVISIONS**. This legislation requires the authority charged by law with conducting an election to establish a procedure by which a qualified elector may cast his ballot, without excuse, during an early voting period for all elections. An early voting center must be established and maintained to ensure that voters may cast only one ballot. A qualified elector may cast his ballot at an early voting center in the county in which he resides. Each county board of registration and elections must establish at least one early voting center. The county board of registration and elections shall determine the location of the early voting center that must be located in a public building. Each early voting center must be supervised by election commission employees. The early voting period begins nine days before an election and ends the day prior to the election, exclusive of Sundays. The county board of registration and elections shall determine the hours of operation for the early voting center or centers; however, the legislation includes certain specified periods of operation as well as requires the early voting center to close at 5:00 p.m. on the final day of early voting, the Monday immediately preceding election day. Postings are required at the centers regarding the criminal penalties for voting more than once.

S.4 establishes a streamlined election calendar which allows elections conducted in the state to be held only on one of the four following dates: (1) the second Tuesday in March; (2) the second Tuesday in June; (3) the second Tuesday in September; or (4) the Tuesday after the first Monday in November. These provisions do not apply to amendments proposed to the State or United States Constitution.

S.4 provides that an additional duty of the Executive Director of the State Election Commission is to enter into the master file a separate designation each for voters casting absentee ballots and early ballots in a general election.

S.4 revises provisions for voting by absentee ballot, allowing absentee ballots to be cast by qualified voters in any of the following categories: (1) students, their spouses, and dependents residing with them; (2) members of the Armed Forces and Merchant

Marines of the United States, their spouses, and dependents residing with them; (3) persons serving with the American Red Cross or with the United Service Organization (USO) who are attached to and serving with the Armed Forces of the United States, their spouses, and dependents residing with them; (4) physically disabled persons who are, pursuant to certification by a physician, unable to vote in person because of their physical disability at either a polling place or early voting center; (5) overseas citizens; (6) persons sixty-five years of age or older; (7) persons confined to a jail or pretrial facility pending disposition of arrest or trial; (8) certified poll watchers, poll managers, county voter registration board members and staff, county and state election commission members and staff working on election day; (9) persons admitted to hospitals as emergency patients on the day of an election or within a four-day period before the election; (10) persons who will be serving as jurors in a state or federal court on election day; or (11) persons on vacation (who by virtue of vacation plans will be absent from their county of residence on election day), or (12) persons attending the sick or physically disabled. The legislation eliminates provisions authorizing the use other methods of voting by absentee ballot instead of by paper ballot, and requiring that any voting machine or voting system, other than a paper-based system, must be certified by the State Election Commission in order for it to be used for in-person absentee voting. The legislation eliminates provisions for the State Election Commission's voting system approval process.

The Judiciary Committee gave a favorable with amendment report to **S.1035**, legislation addressing **ACCESS TO CANNABIDIOL, A SUBSTANCE DERIVED FROM MARIJUANA, FOR TREATMENT OF SEVERE FORMS OF EPILEPSY**. The legislation enacts "**JULIAN'S LAW**" to provide authorization for the state's academic medical centers to conduct expanded access clinical trials approved by the federal Food and Drug Administration (FDA) to investigate the value of cannabidiol as a treatment for patients suffering from severe forms of epilepsy that are not adequately treated by traditional medical therapies. The legislation establishes certain exemptions for cannabidiol under the definition of "marijuana" in the state laws governing narcotics and controlled substances. An exemption for cannabidiol is established that applies to a person, or the persons' parents, legal guardians, or other caretakers, who has received a written certification from a South Carolina-licensed physician that the person has been medically diagnosed as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as 'severe myoclonic epilepsy of infancy', or any other severe form of epilepsy that is not adequately treated by traditional medical therapies. A physician is not subject to detrimental action, including arrest, prosecution, penalty, denial of a right or privilege, civil penalty, or disciplinary action by a professional licensing board, for providing this written certification for the medical use of cannabidiol to a patient.

The Judiciary Committee gave a favorable with amendment recommendation to **H.3945**, legislation to enhance the **ETHICS ACT REQUIREMENTS** that govern the conduct of public officials. Highlights of the legislation include the following.

This legislation creates the South Carolina Commission on Ethics Enforcement and Disclosure (commission) with jurisdiction over the executive, legislative, and judicial branches to administer, supervise, and if necessary investigate ethical conduct and ethics requirements, and this includes the authority to receive, regulate, and supervise all statements of economic interests and other ethics filings. The legislation provides for the commission to assume duties now administered by the House of Representatives and Senate Ethics Committees, the State Ethics Commission, and the Supreme Court of

this State acting through its Commission on Judicial Conduct, with the exception of the ability to adjudicate and sanction individuals for ethics violations. The legislation provides for the composition of this new twelve member commission. Four members of the commission are legislators, with two being Senators elected by the Senate and two being House Members elected by the House of Representatives. Four members are appointed by the Governor, none of whom may be a public official, and four members are active judges elected by a majority vote of the Supreme Court. Among other things, this legislation requires commissioners to conduct themselves in accordance with the Canons of Judicial Conduct. The legislation provides for a director that serves at the commission's pleasure; the director has the responsibility for employing and terminating other commission personnel as may be necessary.

The legislation provides for the commission's various powers, duties and authority, and the legislation includes several provisions relating to complaints. Among other things, complaints received by the commission must be in written form and be signed by the person filing the complaint. There are provisions pertaining to the confidentiality of a matter, and the release of confidential information is a misdemeanor offense; however, a respondent may waive his right to confidentiality. The legislation includes provisions for dismissal of complaints by the director of the commission that do not contain facts sufficient to constitute a violation of law or rule. Otherwise, the director shall cause a panel of three commissioners, with at least one from each of the appointing authorities, to be assigned to oversee the commission's investigation of the complaint. Commission staff may request and receive information from any party relevant to the complaint being investigated, and commission staff through an affirmative vote of the panel may request specialized assistance from the Department of Revenue or the State Law Enforcement Division or issue subpoenas for testimony and documents. Commission staff, under the supervision of the panel, shall compile the results of the investigation for presentation to the full commission. The full commission shall consider the evidence, and may by a majority vote of the membership refer the matter to the appropriate supervisory office having jurisdiction (House of Representatives and Senate Ethics Committees; State Ethics Commission; and Supreme Court of this State acting through its Commission on Judicial Conduct). Nothing prevents the commission after completion of its investigation from referring the matter to the Attorney General for further action rather than to the appropriate entity required where a criminal violation may have occurred. The various appropriate supervisory offices have the duty and authority to adjudicate complaint referrals from the commission; they also have the power and duty to impose penalties or other punishments in regards to ethics violations. The findings of the commission are not binding. Upon referral, the matter and investigation become public.

Also with regards to the appropriate supervisory offices, this legislation allows them to request in writing disclosure of records that are required to be maintained; such a request shall be for the purposes of verifying campaign disclosure forms filed. A candidate, committee, or ballot measure committee must comply within 30 days to such a written request.

The legislation deletes language authorizing the use of what are commonly referred to as leadership PACs.

The legislation provides that contributions received to retire campaign debt must be used for this purpose only.

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The legislation provides that a public official, including members of the General Assembly, or a public employee, may not take a vote on or take an action on a matter in which he, an immediate family member, or a business with which he is associated, has a known financial interest.

This legislation updates and revises various definitions, including the definition of the term candidate. Also, the legislation provides a definition for the term "electioneering communication" which means any broadcast, cable, or satellite communication or mass postal mailing or telephone bank that has the following characteristics: refers to a clearly identified candidate for elected office; and that is publically aired or distributed within 60 days prior to a general election or within 30 days prior to a primary for that office. These communications do not include a news story, candidate debate or forum, or a communication that does not mention any election, candidacy or take a position or the candidate's character. The legislation provides for reports of electioneering communications to the State Ethics Commission.

This legislation includes new provisions relating to income disclosure on a statement of economic interests. Among other things, the legislation clarifies reporting requirements relating to real property. It requires a public official, public member or public employee that receives compensation from an individual or business which contracts with the governmental entity to report the amount of the contract between the governmental entity and that individual or business. The legislation requires a statement of economic interest to include the source of any income received by the filer or a member of the filer's immediate family. The legislation requires the specific source of income received by a public official, a member of the public official's immediate family, or a business with which the public official or a member of his immediate family are associated if the public official or a member of his immediate family derives income from: a contractual or financial relationship, including consultant or independent contractors relationship, with a lobbyist principal or with a governmental entity or source regulated by the governmental entity on which the official serves.

This legislation makes revisions to what is commonly referred to as the "black out" period. The legislation provides that two days before an election, a certified campaign report must be filed showing contributions of more than \$100 and expenditures to and by the candidate or committee for the period commencing at least 20 days before the election and ending two days before the election.

The legislation includes various provisions relating to campaign funds. The legislation includes new provisions relating to how a candidate may reimburse themselves with campaign funds for travel and associated expenses. The legislation provides that any payment or reimbursement of mileage for travel associated with the campaign or office must be at the rate established for the year by the Internal Revenue Service. The legislation provides that the payment or reimbursement for any lodging expenses, food and beverage expenses, or travel expenses other than mileage for the candidate, a member of the candidate's immediate family, or staff must be for travel for the purpose of campaigning for office or otherwise a part of the official responsibilities of an officeholder. The legislation further provides that official responsibilities of the officeholder shall include, but not be limited to, political party events, official appearances or meetings for which reimbursement is not offered by the governmental entity, and educational forums or conventions to which an officeholder is invited in their official capacity. The legislation clarifies that equipment purchased for a campaign is the

sole property of the campaign and must be accounted for upon the final disbursement of a campaign account. The legislation requires any payments to campaign or office staff to be made contemporaneously with the work provided. Further, the legislation prohibits a campaign from employing the immediate family member of the candidate as well as prohibits cash expenditures from campaign accounts. Additionally, this legislation provides for a limited 30 day right to cure for unintentional, nonfraudulent misuse of campaign funds that are in the aggregate per election cycle \$2,000 or less.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

EDUCATION AND PUBLIC WORKS

**S.1219 RETIRED TEACHER SALARIES WHO ARE NOT PARTICIPANTS IN
THE TEACHER AND EMPLOYEE RETENTION INCENTIVE
PROGRAM** Senate Education Committee

Notwithstanding another provision of law, this legislation allows school districts uniformly to negotiate salaries below the school district salary schedule for the 2014-2015 school year for retired teachers who are not participants in the Teacher and Employee Retention Incentive (TERI) program. Thereafter, school districts annually may continue to uniformly negotiate salaries below the school district salary schedule for retired teachers who are not participants in the TERI program for each upcoming school year through the 2019-2020 school year. These provisions expire on July 1, 2020.

JUDICIARY

**S.919 FALSE CLAIMS, STATEMENTS AND REPRESENTATIONS FOR
PURPOSES OF QUALIFYING FOR AND RECEIVING PAYMENT
FOR
BENEFITS** AND REIMBURSEMENT OF MEDICAL CLAIMS AND

Sen. L. Martin

This legislation relates to false claims, statements and representations for purposes of qualifying for and receiving payment and reimbursement of medical claims and benefits. Among other things, the legislation revises the definition of the term "provider". The legislation provides for tiered penalties for committing medical assistance provider fraud relating to the amount of the economic advantage or benefit received. Relating to enforcement provisions, this legislation provides the Attorney General, or a designee, additional powers.

LABOR, COMMERCE AND INDUSTRY

S.909 CAPTIVE INSURANCE COMPANIES FORMED AS RISK RETENTION

GROUPS Sen. Hayes

This bill revises capitalization requirements and other provisions governing the operation of captive insurance companies so as to include provisions for captive insurance companies and special purpose captive insurance companies formed as risk retention groups.

WAYS AND MEANS

**S.964 EXEMPTIONS TO POLITICAL SUBDIVISIONS' ANNUAL PROPERTY
TAX MILLAGE INCREASE LIMITATIONS FOR FIRE DEPARTMENTS
AND MENTAL HEALTH SERVICES Sen. L. Martin**

This bill revises provisions that establish limits on annual property tax millage increases imposed by political subdivisions so as to provide a exemptions from these limitations that allow a millage rate to be increased by referendum for general operating purposes of a fire district and for a county, through a referendum, to suspend the millage rate limitation for the purpose of imposing up to six-tenths of a mill for a mental health services fund.

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